

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

MICHAEL D. ROSE,
and EDWARD L. HARMON,
*on their own behalf and on behalf
of all others similarly situated, et al.*

Plaintiffs,

v.

CIVIL ACTION NO. 5:22-cv-00405

MICHAEL FRANCIS,
*individually and as an employee of
the West Virginia Division of Corrections
and Rehabilitation,*
THE RALEIGH COUNTY COMMISSION,
John/Jane Doe Employees of the Raleigh
County Commission,
THE FAYETTE COUNTY COMMISSION,
John/Jane Doe Employees of the Fayette
County Commission,
THE GREENBRIER COUNTY COMMISSION,
John/Jane Doe Employees of the Greenbrier
County Commission,
THE MERCER COUNTY COMMISSION,
John/Jane Doe Employees of the Mercer
County Commission,
THE MONROE COUNTY COMMISSION,
John/Jane Doe Employees of the Monroe
County Commission,
THE SUMMERS COUNTY COMMISSION,
John/Jane Doe Employees of the Summers
County Commission,
THE WYOMING COUNTY COMMISSION,
John/Jane Doe Employees of the Wyoming
County Commission,
PRIMECARE MEDICAL OF WEST VIRGINIA, INC.,
John/Jane Doe PrimeCare Employees,
JOHN/JANE DOE CORRECTIONAL OFFICERS,
BETSY JIVIDEN, *individually as an employee of the
West Virginia Division of Corrections and Rehabilitation,*
WEXFORD HEALTH SOURCES, INC.
John/Jane Doe Wexford Employees,

BRAD DOUGLAS, *individually and in his official capacity as the acting Commissioner of the West Virginia Division of Corrections and Rehabilitation*,
JEFF S. SANDY, *individually and in his official capacity as the Cabinet Secretary of the West Virginia Division Department of Homeland Security*, and
WILLIAM K. MARSHALL, III
individually and in his official capacity as the Commissioner of the West Virginia Division of Corrections and Rehabilitation,

Defendants.

ORDER

On December 8, 2023, the parties submitted their Joint Motion for Preliminary Approval [Docs. 859, 850] of the pending settlement respecting Defendants Jeff S. Sandy, Betsy Jividen, Brad Douglas, William K. Marshall, III, and Michael Francis (hereinafter “the Settling Defendants”).

The Court **ORDERS** counsel to file no later than **January 19, 2024**, an estimate of the expected recovery of a class member in each proposed category. The estimate should include the forecast both with, and without, a class-wide deduction for attorney fees. Counsel should likewise advise the extent to which, if at all, the payment of attorney fees might be accomplished without penetrating the proceeds from the applicable policies of insurance.

The Court further **ORDERS** that Michael Whitt be appointed as guardian *ad litem* for class members who are currently incarcerated. Counsel are **DIRECTED** to contact Mr. Whitt forthwith and provide him the materials necessary for his review of the matter, along with any additional information requested by him for purposes of discharging his appointment duties.

The Court **DIRECTS** the Clerk to send a copy of the Order to counsel of record and to any unrepresented parties.

ENTER: January 16, 2024



Frank W. Volk
Frank W. Volk
United States District Judge